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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

SYRUS PARVIZIAN,

Plaintiff and Appellant,

v.

CALIFORNIA STATE PERSONNEL  
BOARD,

Defendant and Respondent;

CALIFORNIA DEPARTMENT OF  
TRANSPORTATION,

Real Party in Interest and  
Respondent.

B218009

(Los Angeles County  
Super. Ct. No. BS097608)

APPEAL from an order of the Superior Court of Los Angeles County, James C. Chalfant, Judge. Dismissed.

Kamelia Jalilvand for Plaintiff and Appellant.

No appearance for Defendant and Respondent.

Ronald W. Beals, Chief Counsel, Linda Cohen Harrel, Deputy Chief Counsel, Jill Siciliano-Okoye and Helen Lemmon Alarcon for Real Party in Interest and Respondent.

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## **INTRODUCTION**

Appellant Syrus Parvizian (appellant or Parvizian) purports to appeal from an order denying his motion to correct clerical error and adopting the trial court's tentative ruling as its final order. That order is nonappealable, and we therefore dismiss his appeal.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On June 23, 2005, appellant filed a petition for writ of administrative mandate (Code Civ. Proc., § 1094.5) seeking to overturn a decision by the California State Personnel Board upholding his suspension and dismissal by real party in interest and respondent California Department of Transportation (respondent).

After various proceedings, the trial court issued its tentative decision denying the petition on May 13, 2008. In the tentative decision, the court ordered respondent to "prepare a proposed judgment, serve it on Parvizian for approval as to form, wait 10 days after service for any objections, meet and confer if there are objections, and then submit the proposed judgment along with a declaration stating the existence/nonexistence of any unresolved objections. An OSC re: judgment is set for June 5, 2008." On June 2, counsel for respondent filed a declaration stating that the proposed judgment was served on appellant on May 16, and to date she had received no approval as to form or any objections to the proposed judgment. The judgment denying the petition was filed on June 4, 2008.

On June 9, 2008, appellant filed a document entitled "OSC hearing as ordered by Hon. Judge on the date of hearing on May 13, 2008 for June 05, 2008 then continued to June 09, 2008, Defen.'s response is defective." Written in above the title was "Notice of Reconsideration."

On July 18, 2008, appellant filed a "Motion to reconsideration of this honorable court's decision on writ and hearing June 09, 2008," purportedly made pursuant to Code

of Civil Procedure sections 2033.280, subdivision (c), and 473, subdivisions (a)(1), (b) & (c). On July 23, he filed a “notice of intention to move this honorable court to relief petitioner from judgment made on writ. Motion will be based on new discovery and relief under Code of Civil Procedure, section 473.” On September 19, the trial court denied appellant’s motion for reconsideration.

Appellant filed a “Request from honorable court to allow petitioner [to] file an application for new trial or renewal of a motion based on finding documents and [Code of Civil Procedure section] 1008 the legal basis” on September 29, 2008. The trial court denied this request.

Appellant filed a notice of appeal from the judgment on October 15, 2008. On respondent’s motion, we dismissed the appeal as untimely on March 30, 2009.

On April 21, 2009, appellant filed a “Motion to correct clerical error and relief from court decision caused thereafter,” purportedly pursuant to Code of Civil Procedure section 473, subdivision (d). By it, he sought “to correct clerical or any other improper action after or prior to May 13, 2008 hearing caused deviation of a proper decision, there and after for reconsideration, new trial and appeal.”

On June 3, 2009, the trial court denied appellant’s motion. It explained that while Code of Civil Procedure section 473, subdivision (d), allows a motion to correct clerical error in a judgment at any time, “[a] clerical error exists when there is an error in recording the judgment entered, as opposed to an error in rendering the judgment,” citing *Rochin v. Pat Johnson Manufacturing Co.* (1998) 67 Cal.App.4th 1228, 1237. However, “nothing in Parvizian’s moving papers shows any clerical error in the judgment entered on June 3, 2008. Parvizian only complains that the Real Party-in-Interest prepared a proposed judgment and failed to serve it on him. The court then signed the judgment on June 3, 2008, two days before the OSC re: judgment.

“Only an error in the form of the judgment, not an error in rendering the judgment, can be corrected at this date. While the facts presented by Parvizian would support an assertion that he did not get the chance to agree to the form of judgment before it was

signed, he does not point to anything in the judgment that needs to be corrected. Parvizian wrongly seems to think that he can attack the court's ruling at this late date."

On June 11, 2009, appellant filed a motion for reconsideration of this order under Code of Civil Procedure section 1008, subdivision (a). The trial court denied this motion on July 14.

On July 24, 2009, appellant filed a notice of appeal from the June 3 order.

## DISCUSSION

Respondent has filed a motion to dismiss the appeal on the ground it was taken from a nonappealable order. It is fundamental that an appeal may be taken only from an appealable judgment or order. (*Old Republic Ins. Co. v. St. Paul Fire & Marine Ins. Co.* (1996) 45 Cal.App.4th 631, 638-639, disapproved on another ground in *Cable Connection, Inc. v. DIRECTV, Inc.* (2008) 44 Cal.4th 1334, 1361.) Absent an appealable judgment or order, this court is without jurisdiction to hear an appeal. (*Rossi v. Caire* (1922) 189 Cal. 507, 508; *Lavrishcheff v. Blumer* (1978) 77 Cal.App.3d 406, 410.) Appealable judgments or orders are those declared to be so by statute. (*Old Republic Ins. Co., supra*, at pp. 638-639.)

An order made after an appealable final judgment is itself appealable if it satisfies two requirements: It must raise issues different from those which could have been raised on appeal from the judgment, and it must affect or relate to the judgment by enforcing it or staying its execution. (Code Civ. Proc., § 904.1, subd. (a)(2); *Lakin v. Watkins Associated Industries* (1993) 6 Cal.4th 644, 651-652; *City and County of San Francisco v. Shers* (1995) 38 Cal.App.4th 1831, 1838.) The order from which appellant purports to appeal does neither.

As the trial court noted, appellant's motion to correct clerical error in the judgment was no more than another attempt to challenge the judgment. Appellant raised no issues different from those which could have been raised on appeal from the judgment.

Additionally, the order does not affect or relate to the judgment in any way. It does not enforce the judgment or stay its enforcement. It follows that the order is not appealable and appellant's purported appeal therefrom must be dismissed. (*Lakin v. Watkins Associated Industries, supra*, 6 Cal.4th at pp. 651-652.)<sup>1</sup>

### **DISPOSITION**

The appeal is dismissed.

JACKSON, J.

We concur:

PERLUSS, P. J.

ZELON, J.

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<sup>1</sup> Appellant's application to augment the record on appeal is denied. As was true of his motion to correct clerical error, his application is no more than an attempt to bring before this court documents relating to the propriety of the original judgment. That judgment is now final and not subject to review on this appeal.